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TAGS: KIRF PHUM PGOV SOCI IZ
SUBJECT: BAHAI CASE TESTS IRAQ'S RESPECT FOR
MINORITY/RELIGIOUS FREEDOM

Classified By: Political Counselor Yuri Kim for Reasons 1.4 (b) and (d)

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¶11. (C) SUMMARY: Leaders of Iraq's small Bahai community are requesting the assistance of the Ministry of Interior (MOI) in their bid to receive identification documents that would list their religion as Bahai rather than Muslim. Although the MOI issued a small number of ID cards listing the Bahai faith in 2007, a senior official told the Bahais that he could take no further action unless he received permission from an Iraqi court. The MOI has offered to assist the Bahai in presenting their case in court, an encouraging sign of the GOI's respect for minority rights. END SUMMARY.

Bahais Long Struggle for Recognition

¶12. (U) According to Iraq's Bahai leaders, their community has struggled for official GOI recognition for nearly 40 years. In 1970, the Bahai religion and its activities were outlawed in the Iraqi penal code by Law 105. Prior to Law 105, the Bahai faith enjoyed recognition in Iraq with members of the community being registered as such during the Iraqi census of ¶1957. In 1975, the MOI issued an internal regulation, Rule 358, under which those identified previously as Bahai were issued new registration documents identifying them as Muslim. Bahais could not obtain passports, buy or sell property, register marriages, or obtain ID cards unless their religion was administratively changed to Muslim. As a result, all but a handful of Bahais had their religion changed in order to carry on with their lives.

¶13. (U) Since the ratification of Iraq's new Constitution, the Bahai community has pressed the GOI to recognize the Bahai faith and restore Bahai ID cards and passports. Bahai leaders estimate that there are approximately 2,000 members in their community. In 2007, the MOI took the first step in addressing the issue when it canceled Rule 358, enabling first-time registrants to obtain new ID cards that listed "Bahai" as their religion. However, when Bahais who had had their religion changed to "Muslim" asked to receive new ID cards, the MOI legal advisor informed that it was illegal for any Muslim in Iraq to change his or her religion. Although the Bahais argued that they had never officially converted and that the change in religion was administrative only, the MOI remained adamant that it could not violate Iraqi law.

Embassy Hosts a Bahai-MOI Discussion

¶14. (C) To find a way forward, the Embassy hosted a meeting for three leaders from Iraq's Bahai community -- Abdel Razzaq Abaychi, Sarmad Moqbel, and Dr. Thana Aqiqi -- with the Ministry of Interior's Director General for Passports and Nationality, Major General Yasseen al-Yasiri, on September ¶14. The Bahais reiterated their case to al-Yasiri, whom they had met previously and who expressed sympathy for their case. However, al-Yasiri told the Bahais that his hands were tied

with respect to issuing new ID cards until an Iraqi court issued a legal opinion overturning the 1970 law that bans their religion on the grounds that it is unconstitutional and allowing for the Bahais to have their religion changed back from Muslim.

¶15. (C) Al-Yasiri suggested that one course of action would be for individual Bahai families to take their individual cases to a lower court to receive a favorable opinion and offered MOI assistance in presenting their case. Alternatively, he suggested that the Bahai community as a whole, take its case to a federal court and ask that Law 105 be invalidated on constitutional grounds. The Bahai leaders responded that they were open to this course of action if the MOI could not take action otherwise, but expressed concern that Iraqi judges would be fearful of issuing a ruling in their favor as it would appear to be in violation of Islam and thus draw the ire of extremist elements. Al-Yasiri commented that the situation was difficult, but advised the Bahais to wait until after the conclusion of national elections, when the political atmosphere might be more conducive to their case.

The Bahais Next Move

¶16. (C) Bahai leaders told Poloff they would take al-Yasiri's recommendations back to their community and would make a decision together. They noted that there was not a rush because they agreed with al-Yasiri's assessment that they would need to wait until after the elections. They also noted that they have a long-term time horizon and see their

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struggle as a three-step process. The first step was to establish the precedent that ID cards could be issued with Bahai listed as their religion, which they had accomplished in 2007. The second was to change the religion on documents for those community members whose religious affiliation had previously been administratively changed to Muslim. Finally, the Bahais would focus on changing the documents for the children of Bahai members who were born with Muslim listed as their religion and thus had no previous documents with Bahai listed as their religion.

¶17. (C) COMMENT: The case of the Bahai community represents an important test of the independence of Iraq's judicial system and its respect for minority rights. Given that Article 43 of the Iraqi Constitution gives citizens the freedom of religion, it would appear on its face that the 1970 law outlawing the particular religion of the Bahais is unconstitutional. However, the Bahais have reason to fear that in an atmosphere of sectarian tensions, an Iraqi judge would not feel confident enough to issue a ruling in their favor. Al-Yasiri's offer to involve the MOI in their case was a positive signal that the GOI is supportive of minority rights. END COMMENT.

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